

NILES, PAUL
PLAINTIFF PRO SE,
- against -

23 CV 972 - JLS
CASE No.

AMENDMENT
COMPLAINT
[PRISONER]
DO YOU WANT A JURY
TRIAL? ☒ YES
☐ NO

Acting Commissioner DAINEL F. MATTUCELLO,
Superint. ERNEST J. LOWERRE, Sgt. Peirce (D.P.S., DELMAR)
Jon Doe [C.O.], Jon Doe [C.O.], Jon Doe [C.O.]
Jon Doe [C.O.], Jon Doe [C.O.], Lieut. J. WADE
Medical Technician [Nurse MELEINE]

42 U.S.C. § 1983

FIVE POINTS C.F., DEFENDANT(S), Individual
Suing in CAPACITY(S)

NOTICE

The Public Can Access electronic COURT Files for privacy AND safety / security reasons(s) paper filed with the COURT should therefore not contain: An individual(s) Full social security number or Full birth date; the Full NAME of the Person known to be a minor; or a complete Financial Account number, A Filing may include only: the last four digit(s) of social security number; the year of an individual birth; a minor(s) initial(s) AND the last four digit(s) of a financial Account number, see. FED. R. Civ. PROC. 5.2

1). LEGAL BASIS FOR CLAIM: EXCESSIVE FORCE, UNLAWFUL SEARCH AND SEIZURE IV. AMEND. U.S.C. violation, CRUEL UNUSAL Punishment 8th AMEND. U.S.C. violation or deprivation of U.S.C. AMEND. under 42 U.S.C. § 1983. [THIS CLAIM IS AGAINST DEFENDANT(S) ABOVE STATE OFFICIAL(S) INDIVIDUAL CAPACITIES].

II PLAINTIFF INFORMATION: NILES, PAUL 17A4327
LAST NAME FIRST NAME Middle Prison ID#

TEMPORARY Address: Five Points

CORRECTIONAL FACILITY, N.Y. ROMULUS Zipcode 5
CORRECTIONAL FACILITY NAME STATE COUNTY CITY 14541

III. PRISONER STATUS

☒ CONVICTED & SENTENCE PRISONER [ON APPEAL Post-conviction stages(s)]. ☒ PRE-TRIAL Detainee

IV. DEFENDANT(S) INFORMATION:

DEFENDANT 1: DAINEL F. MATTUCELLO Acting Commissioner
FIRST & Middle NAME LAST NAME JOB TITLE

DEFENDANT 2: ERNEST LOWERRE J Superintendent
First NAME LAST NAME M.I. JOB TITLE

DEFENDANT#1. Address: THE HATTIMAN STATE CAMPUS Bldg#9

N.Y.S. DO.C.C.S., 12220 WASHINGTON AVE, ALBANY, N.Y., 12226

DEFENDANT#2. Address: FIVE POINTS C.F. [SAME Address AS PLAINTIFF].

DEFENDANT 3:

Pirece , Jon Doe Jon Doe Seargent
 LAST NAME FIRST NAME Middle Init. JOB Title

Address: [SAME Address AS PLAINTIFF]

DEFENDANT 4: Jon Doe CORRECTIONAL OFFICER [C.O.]

FIRST LAST NAME JOB TITLE

Address: [SAME AS PLAINTIFF]

DEFENDANT 5: Jon Doe CORRECTIONAL OFFICER [C.O.]

Address: [SAME AS PLAINTIFF] JOB TITLE

DEFENDANT 6: Jon Doe CORRECTIONAL OFFICER [C.O.]

Address: [SAME AS PLAINTIFF] JOB TITLE

DEFENDANT 7: Jon Doe CORRECTIONAL OFFICER [C.O.]

FIRST LAST NAME JOB TITLE

Address: [SAME AS PLAINTIFF]

DEFENDANT 8: Jon Doe CORRECTIONAL OFFICER [C.O.]

Address: [SAME AS PLAINTIFF] JOB TITLE

DEFENDANT 9: J. WADE CORRECTIONAL OFFICER [C.O.]

Address: [SAME AS PLAINTIFF] FIRST NAME LAST NAME JOB TITLE

DEFENDANT 10: FIRST NAME LAST NAME MEDICAL TECH/NURSE

JOB TITLE

Address: [SAME AS PLAINTIFF]

NILES, PAUL
PLAINTIFF PRO. SE,

- against -

Acting Commissioner DANIEL F. Martucello,
Superintendent, ERNEST J. Lowerre, Sgt. Pierce,
D.D.S. Delmar, Jon Doe [C.O.], Jon Doe [C.O.],
Jon Doe [C.O.], Jon Doe [C.O.], Jon Doe [C.O.],
Lieut J. Wade, Med. Tech/Nurse Melene].
Five Points C.F., Defendant(s), Suing in Individual
Capacities);

CV
CASE No.

AMENDMENT
COMPLAINT

CASE LAW(S)

SUPPORTING STATEMENT
OF FACT(S)/CLAIM

42 U.S.C. § 1983

CASE LAW(S): STATEMENT OF CLAIM SECTION IV CONTINUED..

Supporting Plaintiff in Above Caption, Statement Claimed right to Refuse
to submitting to warrant / warrantless DNA sampling; In Glover Court,
they held, "However, in most circumstances, there is a constitutional
right to refuse to submit to warrantless DNA sampling"; See, [STATE V.
Glover, S.Ct., Jud. Ct. of MAINE, Mar. 27th, 2014, 89 A.3d, 1077.] Citing;
[Schneidloth v. Bustamonte, 412, U.S., 218, 228, 935 Ct., 2041, 36 L.ed.
2d 854 [1973]]. To support claim of Nurse [DEFENDANT] violating Plaintiff
IV. Amend. U.S.C. AND defendant(s) conspiring and aiding Nurse to
extract Plaintiff blood; See; Pearson Court ruled, for example; "Court ORDER
to extract blood from defendant was not "Equivalent" of a "WARRANT";
AND THUS, SEARCH ~~was~~ taking blood sample WAS UNREASONABLE AND VIOLATED
IV. AMEND. U.S.C.; Citing; [State v. PEARSON, Ct. of App. of OHIO, 3rd
dist, Seneca County, Oct. 4, 1996, 114 Ohio App., 3d 1681682 N.E.2d.
1086]; Citing; [City of Indianapolis v. Edmond, U.S., S.Ct., Ruling
drug interdiction check points), were in violation of the IV. Amend.
U.S.C., Nov. 28th, 2000, 531 U.S. 32; 121 S.Ct. 447, 148 L.Ed 2d 333].

CASE LAW(S); Supporting Plaintiff Above, Excessive Claim Against
Defendant(s), Excessive use of Physical Force, In. Ever + v. North, for
example; U.S., 3rd Cir., Held; "Where Prisoner WASN'T / WAS NOT Acting
violently while in restraint chair simply refusing to open fist
AND NO EVIDENCE showing prisoner suffered serious injury under
use of Excessive Physical Force constituted cruel AND unusual punishment;
Citing; [Hudson v. McMillian, U.S., S.Ct., FEB 25, 1992, 503 U.S., 112 S.Ct.
995, 117 LEd. 2d 156, 60 USLW 4151]. See also; Plaintiff [SANDERS v. City
of New York, U.S., Dist. Ct. SD. NY, May 11th 2015; Court Dismissing
Defendant(s) summary judgment AND GRANTING Plaintiff Excessive
Force claim]. Furthermore, Title 34 U.S.C. § 12592(2)(b)(a); state
shall promptly expunge DNA of person included in state dna index
system (d) if (b) A court order is NOT "FINAL", IF time REMAINS

For AN Appeal, for example [Like Plaintiff CASE Here]. The plaintiff is being or currently "kidnapped"; by the state, the plaintiff, has notified, the F.B.I. About, conviction resulting, From fraud, Mis-rep. of DNA Evid. Linking Plaintiff to crime, *inter alia*; Perjured witnesses Mis-identification, proving their wasn't "reasonableness for arrest" which makes, it clear that plaintiff is currently kidnapped AND being tortured by State official(s). Further, plaintiff, trial defense counsel/representative Failed to [Motion in Arrest of judgement] or impeach witnesses demonstrating ineffectiveness. As, of know the Plaintiff is at Federal stage(s) on Appeal, but is being interfered by filing do to Marcy C.F. RMHV, TRASHING ALL legal document/document(s) that, Plaintiff NEED to successfully challenge UNLAWFUL conviction.

Therefore, I respectfully Request THIS SO COURT to TAKE Jurisdiction over this civil action DECLARING AN INJUNCTION RELIEF, DEMANDING Plaintiff Release from State custody OR DEVICE MONITORING at HOME CONFINEMENT.

V. STATEMENT OF CLAIM

PLACE OF OCCURRENCE : AREA DOORM DAY ROOM, MENTAL HEALTH UNIT FLOOR, A BLOCK / ICP CELL 003 [PLAINTIFF CELL] [WAS TAKEN FROM] FIVE POINTS CORRECTIONAL FACILITY, ROMULUS, N.Y., P.O. BOX 119 LOCATION
DATE OF OCCURRENCE : August 30th, 2023, TOUR 2 shift, Approx 11^{AM} TIME

FACT(S): ON 08/29/23, Sgt. Pierce / Peirce, informed, NILES, (PLAINTIFF) that "You have to comply AND provide DNA sample (buccal swab & Finger Print(s)) COURT ORDER. NILES, told Sgt. Pierce "I HAVE the right to Refuse AND object to submitting to your [Request] ^{DNA SAMPLE} under N.Y. S. U.S. 2nd Cir. Court Ruling IN RE. to [Nicholas v. GOORD, 430, F3d, 652, NO. 28, 2005]; that N.Y. STATE DNA INDEX SYSTEM ^(IMPLICATES) VIOLATES AN INMATE IV. AMEND. U.S.C. Rights, AND that U.S. Supreme Ct. Ruled that if there is NOT AN individualized reasonable suspicion, probable cause, or without consent & by Person subjected to provide sample] This would violate IV. AMEND. U.S.C. Right. NILES, told Sgt. Pierce "I AM challenged Falsified DNA MIS-INFORMATION ON pending Postconviction M 440.10 NYCPL motion to vacate conviction; NILES told Sgt. Pierce "I AM Challenging the fact that the prosecutor mis-informed Court AND jury trial that An Profile / DNA Profile of ME WAS ~~ADDED~~ IN N.Y. State, AND LOCAL DNA index system, AND that DNA ~~ON~~ Aqua-Fina water bottle I NEVER DRANK FROM the Prosecutor ~~CLAIM~~ FROM Mayor OFFICE CLAIMED ALERTED THEM WHICH LINK ME TO CRIME wrongfully due to FACT I NEVER WAS IN ANY DNA index system ~~AND~~ NOR WAS my dna on water bottle to match DNA ON RAPE Kit or match buccal swab ~~TRIAL~~ COURT tried to take from ME year later After crime." Sgt. Pierce he would talk to his Supervisors, but the Excessive Force will take place. ~~ON~~ NILES, told Sgt. Pierce "I grieved About this matter AND still waiting for matter to be Resolved." Sgt. P. stated "Excessive Force will still take place, AND Fears)" HE will lose his job or be demoted / Lower Ranked if I dont do my job ordered by Supervisor(s) ON, August 30th, 2023, AT the ABOVE PLACE AND DATE OF OCCURRENCE. THE Excessive Force took PLACE, NILES WAS confronted by Sgt. P. After ICP / A BLOCK / CELL 03 OPEN / NILES WAS IN Fear AND told Sgt. P. "I still REFUSE, AND HAVE Constitutional Right to, After Sgt. P. stated, REQUEST For DNA.

NILES, WAS INFORMED BY LIEUT. J. WADE AND SGT. PIERCE THAT DEFENDANT(S) THEIR SUPERVISOR(S) SUPER-INT. ERNEST, J. LOWRICE AND ACTING COMMISSIONER DANIEL F. MARTUCCELLO ORDERED WRONGFUL ACT(S). NILES, EXPLAINED TO LIEUT. J. WADE AND SGT. P. AGAIN FOR LAWFUL AND REASONABLE RIGHT TO REFUSE, SGT. P. ORDERED NILES "EXIT CELL, DIRECTING NILES TO MENTAL HEALTH UNIT DOORM DAY ROOM AREA. THE FOLLOWING JON DOE(S) [C.O.(S)] AFTER SGT. P. ASK NILES TO PROVIDE DNA SAMPLE AND FINGERPRINT(S), NILES AGAIN STATED WHY HE REFUSE AS MENTIONED IN THIS CLAIM; SGT. P. ORDERED FOLLOWING JON DOE(S) [C.O.(S)] TOO "REMOVE NILES FROM WHEELCHAIR, PLACE NILES IN RESTRAINT CHAIR AND STRAP/OR HAND-CUFF AND MECHANICAL RESTRAIN HIS ANKLES AND STRAP NILES INTO CH/RESTRAINT CHAIR." [UNDER LIEUT. J., WADE SUPERVISION]. NILES, REPEATEDLY ASSERTED; "I DON'T CONSENT TO EXCESSIVE FORCE TO PROVIDE DNA SAMPLE OR FINGERPRINTS, NILES SQUEEZED HIS HANDS CLOSED TIGHT, SGT. PIERCE, BENT NILES FINGER / INDEX RIGHT FINGER BACKWARD(S) "DELIBERATELY" TO CAUSE PAIN FOR TO FORCE NILES TO SUBMIT & SELF-INCRIMINATE, AND VIOLATE HIS 4TH AMEND. PROTECTED U.S.C. RIGHTS IN ORDER TO GET OR OBTAIN NILES GENETIC MATERIAL AGAINST WILL, NILES PROTESTED FOR PAIN THROUGHTOUT EXCESSIVE FORCE ON BOTH HAND(S) OR INDEX FINGER(S) WHILE RESTRAINT EXCESSIVELY TIGHT BY RESTRAINT CHAIR AND JON DOE(S) DELIBERATE PHYSICAL RESTRAINTS AND BENDING OF WRIST. NILES CONTINUED TO PROTEST HIS LAWFUL AND REASONABLE RIGHT(S) TO REFUSE AS MENTIONED IN THIS CLAIM HEREIN; BUT, SGT. P. INSTRUCTED THE NURSE / MEDICAL TECH, DELIBERATELY TOO "PICK WHATEVER FINGER YOU WANT TOO GET BLOOD FROM"; NILES BEG FOR PAIN / OR PROTESTED PAIN IN FINGER(S) WHILE SGT. PIERCE BENT FINGER BACK FOR NURSE TOO DELIBERATELY STAB TOO OBTAIN NILES, BLOOD WITHOUT CONSENT TO CONCEAL OR HELP N.Y. COUNTY PROSECUTOR, A.D.A. WIMMER AND TRIAL COURT JUDGE CARRO, GREGORY CONCEAL FALSIFIED DNA INFORMATION, DEVELOPED MANUALLY AGAINST ME TOO CONCEAL WRONGFULLY LINKING ME TO RAPE CRIME FOR REASON WHY PLAINTIFF IS IN STATE CUSTODY [N.Y.S. D.O.C.C.S.] SGT. P. INFORMED NILES, "I WILL HAVE TO WRITE YOU A TICKET AND YOU CAN REQUEST FOR VIDEO DIGITAL TAPE, YOU MAY GO BACK TO YOUR CELL." [THAT(S) ALL I THE PLAINTIFF CAN RECALL AT THIS TIME?].

INJURIES : PLAINTIFF WAS DENIED MEDICAL ATTENTION BY NURSE [DEFENDANT] INVOLVED IN WRONGFUL ACTION. PLAINTIFF HAS BEEN SUFFERING WITH PSYCHOLOGICAL TORTURE, MENTAL ANGUISH NIGHTMARE(S), PARANOIA, UNABLE TO SLEEP, FLASHBACKS, EXTREME DEPRESSION, HELPLESS, NERVE PHYSICAL & MENTAL PAIN, IMPAIRED BREATHING.

VI. RELIEF: WHAT MONEY DAMAGES do you want?
 \$ 1,500,000.00 / ONE MILLION - FIVE HUNDRED THOUSAND - ~~ZERO~~
 DOLLARS) - AND ZERO CENT(S) FOR PAIN AND SUFFERING DEPRIVATION
 OF CONST. RIGHT(S), FUTURE HEALTH ISSUES, MENTAL DAMAGES

What Relief you want court order? An declaratory
 JUDGEMENT to expunge me out state DNA INDEX SYSTEM
 AND DESTROY ANY AND ALL DNA SAMPLE AND FINGER
 PRINTS retrieved FROM PLAINTIFF [NILES, PAUL] under
 state of N.Y.

What other Relief would you want this COURT TO
 order? AN FEDERAL INVESTIGATION CONFIRMING I AM
 NILES, PAUL IS wrongfully and unlawfully incarcerated
 AND order AN immediate Release, FROM N.Y.S.
 D.O.C.C.S. Custody. / DECLARATORY JUDGMENT order N.Y.S.
 D.O.C.C.S. TO REFRAIN FROM WRONGFUL UNLAWFUL ACTIONS
 AGAINST PLAINTIFF AND TRANSFER PLAINTIFF TO ANOTHER
 FACILITY closer to HOMETOWN or QUEENS BOURGHOUGH C.F. UNTIL
 Release by this COURT pending LAWFUL investigation, in re.
 UNLAWFUL INCARCERATION.

VII. PLAINTIFF(S) CERTIFICATION AND WARNING(S)

By signing below, I certify to the best of my knowledge,
 information AND belief that: (1) the complaint is not being
 presented for AN improper purpose (such AS to harass, cause
 unnecessary delay, or needlessly increase the cost of litigation); (2) the
 claim is supported by existing law or by A non-frivolous
 ARGUMENT to change existing law; (3) the factual evidentiary
 contentions have evidentiary support or if specifically so identified,
 will likely have evidentiary support after a reasonable opportunity
 for further investigation or discovery; AND (4) the complaint other-
 wise, complies with requirement(s) of FED. R. Civ. PROC. 11, I
 understand that IF I file three or more cases while I AM A
 prisoner that are dismissed AS Frivolous, MALICIOUS or for failure
 to state A claim, I MAY BE denied in forma pauperis STATUS
 in future cases. I also understand that Prisoners must exhaust
 Administrative Procedures before filing AN ACTION in FEDERAL COURT
 About Prison Conditions 42 U.S.C. § 1997e [A] AND THAT MY CASE MAY
 be dismissed IF I HAVE NOT exhausted my Administrative Remedies AS
 Required. I Agree to provide the Clerk OFFICE with ANY CHANGE OF
 PRISON Address I AM AT. FAILURE TO KEEP MY CURRENT ADDRESS ON FILE

the Clerk(s) office may result in the dismissal of my case.
Each Plaintiff must sign and date the Complaint.

DATED: September, 20²³

NAME OF PLAINTIFF: NILES, PAUL
LAST & FIRST NAME

Current PRISON Address:

FIVE POINTS CORRECTIONAL
FACILITY, ROMULUS, N.Y., P.O. BOX 119

DATE ON WHICH I AM
DELIVERING this Complaint to
PRISON AUTHORITY(IES) FOR MAILING:

DATED: SEPTEMBER, 20²³

Regular Signature

NILES, PAUL

PLAINTIFF, Signature,
Prose,

PRISON ID#: 17A4327

S.Ct. CRIM. N.Y. County

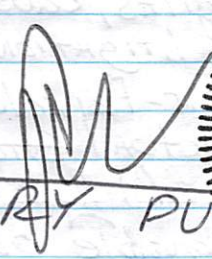
[NOTE] Ind. #

4941-2015

IN RE. to UNLAW

UNLAWFUL
INCARCERATION

SWORN to before
ME ON this 6TH day of
SEPTEMBER, 20²³


NOTARY PUBLIC SERVICE



08/31/2023
DCP004NYS DEPT OF CORRECTIONS & COMMUNITY SUPERVISION
SUPERINTENDENT HEARING DISPOSITION RENDERED

PAGE 1

FIVE PT RMHU

TAPE NUMBER

D-7

DIN: 17A4327 NAME: NILES, PAUL T

LOCATION: FIVE PTS IC

SHU CELL INELIGIBLE

INCIDENT DATE & TIME: 08/30/2023 11:50 AM TIER 3

REVIEW DATE: 08/31/2023

BY: LT TUCCILLO, T R

DELIVERY DATE & TIME: 9/1/23 11:40 am BY: CO CookeHEARING START DATE & TIME: 9/8/23 10:00 AM BY: D. MartinHEARING END DATE & TIME: 9/8/23 11:00 AM BY: D. Martin

WAS THERE NEED FOR A FORMAL MENTAL HEALTH/INTELLECTUAL CAPACITY ASSESSMENT? Y / N

CHARGE NUMBER	DESCRIPTION OF CHARGES	REPORTED BY	DISPOSITION
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107.10	INTERFERENCE WITH EMPLOYEE	SGT PIERCE, J J	<u>Guilty</u> <u>Guilty</u> <u>Guilty</u>
106.10	REFUSING DIRECT ORDER		
106.11	DNA REFUSAL		

ANY GUILTY DISPOSITION WILL RESULT IN A MANDATORY DISCIPLINARY SURCHARGE IN THE AMOUNT OF FIVE(\$5.00) DOLLARS BEING ASSESSED AUTOMATICALLY AGAINST THE I/I. SANCTION DATES BELOW ARE SUBJECT TO REVIEW/CHANGE, AND WILL BE CONSECUTIVELY ADDED TO ANY SIMILAR CURRENT SANCTION.

PENALTY CODE	DESCRIPTION	PENALTY MO	START DATE	RELEASE DATE	SUSPEND MO	DEFERRED MO	RESTITUTION \$\$\$\$. ¢¢
-----------------	-------------	---------------	---------------	-----------------	---------------	----------------	------------------------------

<u>D000</u>	<u>Loss Rec.</u>	<u>10</u>	<u>9-8-23</u>	<u>9-18-23</u>			
<u>E000</u>	<u>" Budget</u>	<u>10</u>	<u>9-8-23</u>	<u>9-18-23</u>			

X

08/31/2023
DCP004NYS DEPT OF CORRECTIONS & COMMUNITY SUPERVISION
FIVE PT RMHU CORRECTIONAL FACILITY

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SUPERINTENDENT HEARING DISPOSITION RENDERED

DIN: 17A4327 NAME: NILES, PAUL T

HEARING DATE: 9-8-23

SHU CELL INELIGIBLE

INCIDENT DATE: 08/30/2023

TIME: 11:50 AM

TIER: 3

A. STATEMENT OF EVIDENCE RELIED UPON:

The mishap prior report by Sgt. Pierce stating that I/E Niles refused to submit to a DNA test.

I/E Neil objected to the process that it was his constitutional right to refuse to give a DNA sample.

I/E Neil would only speak to me off the record with Co Brown as a witness.

Co Brown affirmed his pleas of guilty on all violations.

DNA testimony was taken on I/E Niles mental capacity.

08/31/2023
DCP004NYS DEPT OF CORRECTIONS & COMMUNITY SUPERVISION
FIVE PT RMHU CORRECTIONAL FACILITY

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SUPERINTENDENT HEARING DISPOSITION RENDERED

DIN: 17A4327 NAME: NILES, PAUL T

HEARING DATE: _____

SHU CELL INELIGIBLE

INCIDENT DATE: 08/30/2023

TIME: 11:50 AM

TIER: 3

B. SPECIAL CONSIDERATIONS:

1. IF AT ISSUE, HEARING OFFICER CONSIDERED I/I'S MENTAL HEALTH AS FOLLOWS:

Based on the testimony of OMT staff, my observations at the hearing, I find that you were capable of understanding. Your mental health was not a factor.

2. IF AT ISSUE, I/I'S INTELLECTUAL CAPACITY/SPECIAL EDUCATION STATUS AS FOLLOWS:

NA

C. ANY OTHER INDIVIDUAL MITIGATING OR AGGRAVATING CIRCUMSTANCES WERE CONSIDERED AS FOLLOWS (include how they weigh in favor of a less severe or more severe sanction):

NA

08/31/2023
DCP004NYS DEPT OF CORRECTIONS & COMMUNITY SUPERVISION
FIVE PT RMHU CORRECTIONAL FACILITY

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SUPERINTENDENT HEARING DISPOSITION RENDERED

DIN: 17A4327 NAME: NILES, PAUL T

HEARING DATE: 9-8-23
SHU CELL INELIGIBLE

INCIDENT DATE: 08/30/2023

TIME: 11:50 AM

TIER: 3

D. REASONS FOR DISPOSITION:

Refusing a direct order is against
facility rules.

E. SUPPLEMENTAL DATA ENTRY

1. IF FOUND GUILTY OF ASSAULT (100.10; 100.11; 100.12):
 WAS WEAPON USED? ☒ (Y/N) WHAT TYPE? ☐
 DID AN INJURY OCCUR? ☐ (Y/N) SEVERITY (1-4)? ☐
2. IF FOUND GUILTY OF A SEX OFFENSE (101.10):
 CHOOSE ONE: ☐ FORCE/ATT FORCE ☐ ENCOURAGE/SOLICIT ☐ CONSENSUAL
3. IF FOUND GUILTY OF THREATS (102.10):
 CHOOSE ONE: ☐ NON-VIOLENT ☐ VIOLENT
4. IF FOUND GUILTY OF VIOLENT CONDUCT (104.11):
 CHOOSE ONE: ☐ THREAT OF VIOLENCE ☐ ACT OF VIOLENCE
5. IF FOUND GUILTY OF DEMONSTRATION (104.12):
 CHOOSE ONE: ☐ LEAD/ORGANIZED ☐ PARTICIPATED
6. IF FOUND GUILTY OF INTERFERENCE (107.10):
 CHOOSE ONE: ☐ PHYSICAL ☐ VERBAL
7. IF FOUND GUILTY OF DRUG POSSESSION (113.25)
 CHOOSE ONE: ☐ POSSESSION ONLY ☐ MAKE/DISTRIBUTE/SELL/EXCHANGE

08/31/2023
DCP004

NYS DEPT OF CORRECTIONS & COMMUNITY SUPERVISION
FIVE PT RMHU CORRECTIONAL FACILITY

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SUPERINTENDENT HEARING DISPOSITION RENDERED

DIN: 17A4327 NAME: NILES, PAUL T

HEARING DATE: 9-8-23

SHU CELL INELIGIBLE

INCIDENT DATE: 08/30/2023

TIME: 11:50 AM

TIER: 3

G. PURPOSE(S) OF CONFINEMENT SANCTION IMPOSED (IF ANY) - SET FORTH ALL THAT APPLY:

1. INCAPACITATION(Include the specific behaviors that posed a threat to the safety of staff or other incarcerated individuals):

NA

2. DETERRENCE:

NA

3. FAIRNESS:

NA

08/31/2023
DCP004NYS DEPT OF CORRECTIONS & COMMUNITY SUPERVISION
FIVE PT RMHU CORRECTIONAL FACILITY

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SUPERINTENDENT HEARING DISPOSITION RENDERED

DIN: 17A4327 NAME: NILES, PAUL T

HEARING DATE: 9-8-23

SHU CELL INELIGIBLE

INCIDENT DATE: 08/30/2023

TIME: 11:50 AM

TIER: 3

H. REASON(S) FOR A CONFINEMENT SANCTION IMPOSED (IF ANY) WHERE I/I IS UNDER
PRIOR CONFINEMENT OR IN A SHU-ALTERNATIVE PROGRAM (Must have a guilty determination
of an offense listed in section 1 and clearly articulated in section 2 and/or 3
to impose a confinement sanction on an I/I already serving a confinement sanction):

1. THE I/I IS FOUND GUILTY OF ONE OR MORE SERIOUS OFFENSES AS FOLLOWS:

<input type="checkbox"/> PENAL LAW OFFENSE	<input type="checkbox"/> SEX OFFENSE	
<input type="checkbox"/> ASSAULT ON I/I	<input type="checkbox"/> FORCIBLE TOUCHING	<input type="checkbox"/> ESCAPE ITEMS
<input type="checkbox"/> ASSAULT ON STAFF	<input type="checkbox"/> STALKING	<input type="checkbox"/> POSSESSION EMPLOYEE PROPERTY
<input type="checkbox"/> ASSAULT ON OTHER	<input type="checkbox"/> THREATS	<input type="checkbox"/> SMUGGLING
<input type="checkbox"/> RIOTING		
<input type="checkbox"/> ESCAPE	<input type="checkbox"/> VIOLENT CONDUCT	<input type="checkbox"/> EXPLOSIVES
<input type="checkbox"/> WEAPON	<input type="checkbox"/> DEMONSTRATION	<input type="checkbox"/> ARSON
<input type="checkbox"/> FIGHTING	<input type="checkbox"/> GANGS	<input type="checkbox"/> UNHYGIENIC ACT

2. THE ACT(S) OF MISBEHAVIOR DEMONSTRATE A THREAT TO SAFETY AS FOLLOWS:

NA

3. THE I/I HAS ENGAGED IN THE FOLLOWING REPEATED ACTS OF DISRUPTIVE MISBEHAVIOR
DESPITE PRIOR ALTERNATIVE INTERVENTIONS AS SET FORTH BELOW:

NA

f X

08/31/2023
DCP004NYS DEPT OF CORRECTIONS & COMMUNITY SUPERVISION
FIVE PT RMHU CORRECTIONAL FACILITY

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SUPERINTENDENT HEARING DISPOSITION RENDERED

DIN: 17A4327 NAME: NILES, PAUL T

HEARING DATE: 9-8-23

SHU CELL INELIGIBLE

INCIDENT DATE: 08/30/2023

TIME: 11:50 AM

TIER: 3

I. REASON(S) FOR INVOKING REMAINING CONFINEMENT SANCTIONS SUSPENDED UPON AN I/I'S SUCCESSFUL COMPLETION OF A SHU-ALTERNATIVE PROGRAM (Must have a guilty determination of an offense listed in section 1 and clearly articulated in section 2 to impose the SUSPENDED SHU confinement sanction after successful completion of a SHU-alternative program):

1. THE I/I COMMITTED A SERIOUS ACT OF MISBEHAVIOR AS SET FORTH BELOW:

<input type="checkbox"/> PENAL LAW OFFENSE	<input type="checkbox"/> SEX OFFENSE	
<input type="checkbox"/> ASSAULT ON I/I	<input type="checkbox"/> FORCIBLE TOUCHING	<input type="checkbox"/> ESCAPE ITEMS
<input type="checkbox"/> ASSAULT ON STAFF	<input type="checkbox"/> STALKING	<input type="checkbox"/> POSSESSION EMPLOYEE PROPERTY
<input type="checkbox"/> ASSAULT ON OTHER	<input type="checkbox"/> THREATS	<input type="checkbox"/> SMUGGLING
<input type="checkbox"/> RIOTING		
<input type="checkbox"/> ESCAPE	<input type="checkbox"/> VIOLENT CONDUCT	<input type="checkbox"/> EXPLOSIVES
<input type="checkbox"/> WEAPON	<input type="checkbox"/> DEMONSTRATION	<input type="checkbox"/> ARSON
<input type="checkbox"/> FIGHTING	<input type="checkbox"/> GANGS	<input type="checkbox"/> UNHYGIENIC ACT

2. THE I/I COMMITTED THE SAME OR SIMILAR VIOLATION AS THAT LEADING TO THE SUSPENDED SANCTION AS SET FORTH BELOW:

NA

J. SPECIAL INSTRUCTION ON VISITATION OR CORRESPONDENCE RESTRICTIONS, REFERRALS OR SPECIAL EVENT LOSS:

NA

YOU HAVE THE RIGHT TO APPEAL THIS TIER III DISPOSITION BY SENDING YOUR APPEAL TO THE COMMISSIONER'S OFFICE WITHIN 30 DAYS OF YOUR RECEIPT OF SUCH DISPOSITION:

I HAVE RECEIVED A COPY OF THIS HEARING DISPOSITION DATED: 9-8-23 11:08 AM
D. Marten / would not use M.P. / 9-8-23

HEARING OFFICER SIGNATURE I/I SIGNATURE

DATE & TIME RECEIVED

SUCCESSFUL PRINT COMPLETION

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

WITNESS INTERVIEW NOTICE (For Superintendent's & Disciplinary Hearings)Five Points Correctional FacilityMiles
Inmate Name (Print)17A4327
DIN

An inmate may call witnesses on his or her behalf provided their testimony is material, is not redundant, and doing so does not jeopardize institutional safety or correctional goals.

If permission to call a witness is denied, or if a requested witness testifies outside the presence of the inmate charged and/or if the inmate is not permitted to review the testimony of a witness, the reason for such determination must be recorded on this form and copies given to the inmate by the hearing officer and included in the hearing record.

Reference: Directive #4932, Sections 253.5 and 254.5.

MHU Staff
Requested witness:

- ☐ Permission to call the requested witness is denied.
☒ Requested witness will testify outside inmate's presence.
☐ Inmate is not permitted to review requested witness's testimony.

Date: 9/8/23 Explanation: Confidential testimony concerning I/I Miles mental capacity.

Requested witness:

- ☐ Permission to call the requested witness is denied.
☐ Requested witness will testify outside inmate's presence.
☐ Inmate is not permitted to review requested witness's testimony.

Date: _____ Explanation: _____

Requested witness:

- ☐ Permission to call the requested witness is denied.
☐ Requested witness will testify outside inmate's presence.
☐ Inmate is not permitted to review requested witness's testimony.

Date: _____ Explanation: _____

Signature D. Martin x MP 17A4327 98-22
Hearing Officer Inmate DIN Date Received

Distribution: Original - Hearing Record Copy - Inmate

NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

DANIEL F. MARTUSCELLO III
ACTING COMMISSIONER

TO: NILES, PAUL T , 17A4327
RAPE 1ST 17A4327

RE: NOTICE TO UNDER CUSTODY INMATES WHO
ARE REQUIRED TO PROVIDE A DNA SAMPLE

THE LAW ON DNA WAS FIRST ENACTED IN 1994. A PERSON'S DNA, LIKE HIS OR HER FINGERPRINTS, IS UNIQUE. DNA TECHNOLOGY HAS BEEN USED BOTH TO HELP SOLVE CRIMES AND TO FREE INNOCENT INDIVIDUALS WHO HAVE BEEN MISTAKENLY ACCUSED OR CONVICTED OF A CRIME.

IN 1999, THE LEGISLATURE CHANGED THE LAW ON DNA WITH REGARD TO THE CRIMES FOR WHICH INMATES WILL BE REQUIRED TO PROVIDE A DNA SAMPLE. THE ORIGINAL LAW ON DNA WAS FIRST APPLIED TO THOSE INMATES WHO CAME TO PRISON ON OR AFTER JANUARY 1, 1996, CONVICTED OF CERTAIN CRIMES, CONSISTING OF ASSAULT, HOMICIDE, SEX OFFENSES, INCEST, ESCAPE, AND ABSCONDING.

THE FIRST CHANGE IN THE LAW, WHICH WAS ENACTED IN 1999, EXPANDED THIS LIST TO INCLUDE ANY VIOLENT FELONY AND NUMEROUS OTHER SERIOUS CRIMES. IN 2004, THE LAW WAS EXPANDED TO INCLUDE VARIOUS OTHER CRIMES. IN 2006, THE LAW WAS EXPANDED TO ALSO INCLUDE ALL PENAL LAW FELONY CONVICTIONS AS WELL AS 34 OTHER SERIOUS MISDEMEANORS. A COPY OF THE LAW IS AVAILABLE IN THE LAW LIBRARY.

THE TAKING OF A DNA SAMPLE IS SIMILAR TO THE REQUIREMENT THAT THE DEPARTMENT TAKE AN INMATE'S FINGERPRINTS WHEN HE OR SHE FIRST ENTERS THE SYSTEM. THIS IS CONTAINED IN CORRECTION LAW SECTION 618.

YOU HAVE BEEN BROUGHT TO THE FACILITY INFIRMARY TODAY BECAUSE THE LAW REQUIRES THAT A DNA SAMPLE BE OBTAINED FROM YOU. EITHER, A SAMPLE SHOULD HAVE BEEN, BUT WASN'T OBTAINED FROM YOU WHEN YOU FIRST ENTERED THE SYSTEM; OR, A SAMPLE IS NOW REQUIRED BECAUSE YOU ARE SERVING A SENTENCE COVERED BY THE RECENT CHANGE IN THE LAW. IN EITHER CASE, THIS NOTICE SHALL SERVE AS THE LEGAL EQUIVALENT OF A DIRECT ORDER TO YOU TO COOPERATE IN THE TAKING OF A DNA SAMPLE.

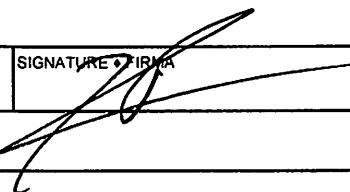
IF YOU DO NOT COMPLY WITH THIS ORDER, YOU WILL BE SUBJECT TO DISCIPLINE FOR THE FAILURE TO OBEY A DIRECT ORDER AND IF FOUND GUILTY, YOU MAY RECEIVE A PENALTY THAT WILL POSSIBLY INCLUDE: A RECOMMENDED LOSS OF GOOD TIME, KEEPLOCK CONFINEMENT, PLACEMENT IN A SPECIAL HOUSING UNIT, AND/OR LOSS OF CERTAIN PRIVILEGES. IN ADDITION, YOUR SCHEDULED RELEASE DATE FROM PRISON MAY BE CHANGED IF YOU DO NOT COOPERATE IN THIS PROCEDURE. LASTLY, IF YOU DO NOT COOPERATE, THE DEPARTMENT DOES HAVE THE LEGAL AUTHORITY TO USE FORCE IN ORDER TO OBTAIN A DNA SAMPLE.

~~THE TAKING OF A DNA SAMPLE INVOLVES A SIMILAR PROCEDURE TO THE ONE THAT WAS~~
USED ON YOU WHEN YOU FIRST ENTERED THE SYSTEM AND A BLOOD SAMPLE WAS TAKEN FROM YOUR ARM BY MEDICAL PERSONNEL. THE DEPARTMENT HAS ARRANGED FOR QUALIFIED MEDICAL TECHNICIANS TO WITHDRAW FROM YOUR ARM A SMALL BLOOD SAMPLE OR BUCCAL SWAB FROM YOUR MOUTH THAT WILL MEET THE REQUIREMENTS OF THE LAW. NOW THAT YOU HAVE BEEN ADVISED OF THE REQUIREMENTS OF THE DNA LAW, THE MEDICAL TECHNICIAN WILL PROCEED TO TAKE YOUR SAMPLE.

NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES

Five Points Correctional Facility

INCARCERATED INDIVIDUAL MISBEHAVIOR REPORT ♦ INFORME DE MAL COMPORTAMIENTO DEL INDIVIDUO ENCARCELADO

1. NAME OF INCARCERATED INDIVIDUAL (Last, First) ♦ NOMBRE DEL INDIVIDUO ENCARCELADO (Apellido, Nombre)		NO. ♦ NUM	HOUSING LOCATION ♦ CELDA
Niles, Paul		17A4327	ICP-A-003
2. LOCATION OF INCIDENT ♦ LUGAR DEL INCIDENTE		INCIDENT DATE ♦ FECHA	INCIDENT TIME ♦ HORA
MHU Dorm		August 30, 2023	11:50 AM Approximately
3. RULE VIOLATION(S) ♦ VIOLACION/ES			
106.10 - DIRECT ORDER			
106.11 - DNA REFUSAL			
4. DESCRIPTION OF INCIDENT ♦ DESCRIPCION DEL INCIDENTE			
I was directed to order incarcerated individual Niles 17A4327 to produce a DNA sample. I gave incarcerated individual multiple direct orders to produce a sample and have fingerprints completed. Incarcerated individual refused, Superintendent Lowerre authorized use of force to complete the test.			
REPORT DATE ♦ FECHA			
08/31/23		REPORTED BY ♦ REPORTADO POR	SIGNATURE ♦ FIRMA
J. Pierce			TITLE ♦ TITULO
Sgt		5. ENDORSEMENTS OF OTHER EMPLOYEE WITNESSES (if any) SIGNATURES :	
ENDOSOS DE OTROS EMPLEADOS TESTIGOS (si hay)		FIRMAS: 1	
2		3	

NOTE: Fold back Page 2 on dotted line before completing below.

DATE AND TIME SERVED UPON INCARCERATED INDIVIDU: 9-1-23 1140 am

NAME AND TITLE OF SERVER

CC Coche

FECHA HORA DADO AL INDIVIDUO ENCARCELADO

NOMBRE Y TITULO DEL QUE ENTREGA

You are hereby advised that no statement made by you in response to the charges or information derived therefrom may be used against you in a criminal proceeding. ♦ Por este medio se le informa que no se puede usar ninguna declaracion hecha por usted como respuesta al cargo informacion derivada de ella en una demanda criminal.

NOTICE ♦ AVISO

REVIEWING OFFICER (DETACH BELOW FOR VIOLATION HEARING ONLY)

You are hereby notified that the above report is a formal charge and will be considered and determined at a hearing to be held. ♦ Por este medio se le notifica que el informe anterior es un cargo formal el cual se considerara y determinara en una audiencia a celebrarse.

The inmate shall be permitted to call witnesses provided that so doing does not jeopardized institutional safety or correctional goals. ♦ Se le permitira al recluso llamar testigos con tal de que al hacerlo no pondra en peligro la seguridad de la institucion o los objetivos del Departamento.

If restricted pending a hearing for this misbehavior report, you may write to the Deputy Superintendent for Security or his/her designee prior to the hearing to make a statement on the need for continued prehearing confinement. ♦ Si esta restringido pendiente a una audiencia por este informe de mal compartamiento, puede escribirle al Diputado del Superintendente para Seguridad o su representante antes de la audiencia para que haga una declaracion acerca de la necesidad de continuar bajo confinamiento , previo a la audiencia.

Distribution: WHITE - Disciplinary Office CANARY - I/I (After review) ♦ Distribucion: BLANCA - Oficina Disciplinaria AMARILLA - Recluso (despues de la region)



Corrections and Community Supervision

KATHY HOCHUL
Governor

DANIEL F. MARTUSCELLO III
Acting Commissioner

September 7, 2023

Niles, Paul (17A4327)
IC-0A-003

Re: FOIL Log No. FPT-0465-23

This is in response to your New York State Freedom of Information Law request for Use of Force digital video recordings from August 30, 2023, from 11am-12pm.

The requested documents are exempt pursuant to Public Officers Law §87(2) (g)(where records are inter-agency or intra-agency materials which are not statistical or factual tabulations, or external audits).

Sincerely,

A handwritten signature in black ink that reads "S. Warne".

S. Warne
OA2
IRC

CC: FOIL Records

If you do not receive a response or delay notification by the date specified, you may appeal by writing the Office of the Counsel & FOIL Appeals Officer, NYS Department of Corrections and Community Supervision, The Harriman State Campus, 1220 Washington Avenue, Albany, New York, 12226-2050.

In appeal correspondence, please clearly note your name, DIN number, facility from which records were requested, and the FOIL Log Number provided.

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONS AND COMMUNITY
SUPERVISION

SICK CALL REQUEST FORM

NAME: NILES, PAUL

CELL LOCATION: MHU/ICP/CA/03

DATE: Sept. 11, 23

DIN#: 1714327

Do you

☒ REQUEST to be seen AT SICK CALL?

REASON FOR SICK CALL? EXTREME PRICKING, ACHING
FINGER NERVE PAIN, PARALYZING HAND, TROUBLE
BREATHING, CHEST PAIN, DIZZINESS, ARTHRITIS

☒ OTHER: REQUEST PAIN MEDICATION IBUPROFEN
NOT WORKING FOR ME, I REQUEST PHYSICAL THERAPY
FOR PAIN IN FINGER HANDS AND KNEES -

STATE OF NEW YORK

Department of Corrections and Community Supervision

SICK CALL REQUEST FORM

DATE: Aug 31ST 23

NAME: NILES, ~~John~~ P.

DIN#: 174432-2

Cell : 14H1/ICP-0A-60

Location: 003 CELL

DO YOU

☒ REQUEST to be seen
AT SICK CALL?

Extremities: Pain/Kings
Ache Pain in fingers, Hand,
Wrist, Trouble breathing, chest pain, dizziness, Arthritis

☒ OTHER
Therapy for pain in fingers & wrist
Hand.

DEPARTMENT OF CORRECTIONS AND COMMUNITY
SUPERVISION

SICK CALL REQUEST FORM

NAME: NILES, PAUL

DATE: SEPT. 08 23

CELL LOCATION: MHU/ICP/OA/03 DIN#: 17A4327

DO YOU REQUEST

☒ Request to be seen at sick call

REASON FOR SICK CALL? EXTREM PRICKING, ACHING,
FINGER NERVE PAIN, PARALIZIN HAND, TROUBLE
BREATHING, CHEST, PAIN, DIZZINES, ARTHRITIS

☒ OTHER: REQUESTING PAIN
MEDICATION Ibuprofen NOT
WORKING FOR ME. I REQUEST PHYSICAL
THERAPY FOR PAIN IN FINGERS
AND HANDS & WRIST;